



DEPARTMENT OF STATE

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BRIEFING MEMORANDUM

7519725

S/S *RS*

October 4, 1975

UNCLASSIFIED

To : The Secretary

From : L - Monroe Leigh *M.L.*

Jack Anderson Report

As reported in the October 2 TV/RADIO HIGHLIGHTS, Jack Anderson has made a statement with respect to the Sinai documents that were leaked to the press. His statement includes a description of a memorandum prepared by the Senate Office of Legislative Counsel (OLC) which argues that the basic U.S.-Israel Memorandum of Agreement (MOA) must, as a matter of law, be submitted as a treaty. Anderson's description of the OLC memorandum contains errors, and the memorandum itself is very poor. We have prepared a reply to it. The following comparison of assertion and fact may be of interest:

Anderson:

"The Senate legal Office has concluded that the Sinai pact must be considered a treaty."

The Senate legal Office concluded that the U.S.-Israel MOA must be considered a treaty, and "possibly" the two assurances to Israel and Egypt (Tabs G and H) should be treaties. It does not discuss and therefore reaches no legal conclusion on the U.S. Proposal.

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Anderson:

"The secret legal opinion points out in considerable detail that the Sinai pact meets five of the eight official State Department criteria for a treaty."

"Most important the legal document declares that at least four portions of the Sinai pact may be construed to provide for the use of U.S. troops in the Middle East."

"Unless the accords are handled as a treaty, in the opinion of the legislative counsel, the Sinai agreements will have no legal standing in American law or international law."

The Department's criteria (set out in the Circular 175 Procedure) are not legally binding. The Circular 175 itself in a disclaimer states specifically that failure to follow the guidelines set forth therein does not invalidate any agreements or negotiations. It is arguable that some of the provisions might meet two (certainly not five) of the eight Department standards.

The OLC Memorandum states the SFRC "may wish to view the Agreement in terms of the broadest reasonable construction to which it could be subjected either by Israel or by a United States President." So construed, says OLC, the U.S. "will introduce its armed forces into hostilities for the purposes of --" and then follows the obligations of paras. 7, 10, 11, and 14.

The OLC Memorandum does reach this conclusion with respect to the basic U.S.-Israel MOA. It states that the MOA on the Geneva Peace Conference may be handled as an executive agreement. The other assurances, as set forth in Tabs G and H, "possibly have to be handled as a treaty. The entire argument is wrong, and is supported by no legal authority whatever, not even one Supreme Court case.

AWP
Drafted:L/T:ARovine:edk
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October 2, 1975

TO : THE SECRETARY

FROM : S/PRS - William P. Brown *WPB*

SUBJECT: TV/RADIO HIGHLIGHTS, Morning October 2, 1975

MORNING REPORT

THURSDAY

OCTOBER 2, 1975

1. IDI AMIN, Richard C. Hottelet, CBS World News Roundup, UN.
2. SPAIN, Bernard Kaplin, ABC, American Information Radio, Paris.
3. REPORT FROM JACK ANDERSON, Bill Butell, ABC, AM America, Washington.

C. Hottelet, CBS World News Roundup, UN --

Amin had promised his fellow Africans that he would not embarrass them. He drew loud applause in the General Assembly but there was considerably embarrassment. In calling for the expulsion of Israel from the UN and the extinction of the state of Israel Amin went far beyond the resolutions of the African summit conference which met in his own capital, Kampala, in July. Only the Arab extremists, Libya, Iraq and some of the Palestinians take that position and it seems as good as certain that the assembly will take no action to follow up. Amin is likely to draw a sharp rejoinder from Israel and further rebuke from Britain whose policy he attacked. The United States is weighing the pros and cons of even replying to his assertions that the US has been colonized by Zionists and that black Americans are largely to blame for their own problems. One third world diplomat privately dismissed Amin as an unguided missile and suggested that Uganda, Africa and the developing countries for whom Amin said he was speaking would have been better off without his appearance.

SPAIN

Bernard Kaplin, American Information Radio, Paris --

In an unprecedented economic boycott Spain has been virtually cut-off from the rest of Europe. At the command of labor unions throughout western Europe rail, sea, air and postal communications with Spain have been cut as a further protest against the Franco regime's political repression. Only Spain's National Airline is flying in and out of the country and in several European countries it has been refused landing privileges. The over-all action is scheduled to last 24 hours. But European labor groups including spokesmen for the communist and the non-communist unions here in France are saying it may be renewed.

REPORT FROM JACK ANDERSON

Bill Butell, AM America - - Now we go back to Washington for an exclusive report from Jack Anderson -

of State
"Two weeks ago I published the secret Sinai agreements that Secretary/ Henry Kissinger negotiated with Egypt and Israel, the disclosures created an uproar in Washington. Kissinger is conducting an investigation to pinpoint my sources. Actually the leaks came from his own house. My State Department sources felt the American people were

entitled to know the price of the truce before they are called on to pay it. I obtained the Sinai papers before they were delivered to Capitol Hill. The committee which are suppose to approve the secret accords had not actually seen them yet. Several members complained that they had to read about the secret agreements in the newspapers. Now Kissinger is trying to rush the Egyptian-Israeli pact through Congress but he does not want the secret accords to be debated in public, despite the fact that I have already released them to the press. Now this morning the Senate FRC will vote secretly whether to debate the Sinai pact openly. There is a good chance that the majority will bow to Kissinger's wishes and keep the agreements secret even though I have already published them. But there is a new development. Iowa Senator Dick Clark, a member of the committee, has asked the Senate's own legislative council to deliver an opinion on the Sinai pact. Now this important opinion is contained in a 42 page memorandum which is also stamped secret. The Senator therefore refused to release it. I have learned, never-the-less, what the document says. The Senate legal office has concluded that the Sinai pact must be considered a treaty. This means it must be passed by a two-thirds vote as the constitution provides. The secret legal opinion points out in considerable detail that the Sinai pact meets five of the eight official State Department criteria for a treaty. Kissinger still insists, however, on calling it a simple agreement. Most important the legal document declares that at least four portions of the Sinai pact may be construed to provide for the use of US troops in the Middle East. Unless the accords are handled as a treaty, in the opinion of the legislative council, the Sinai agreements will have no legal standing in American law or international law.